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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

In re:

ISE CORPORATION, a California corporation,  
  
Debtor.

MAXWELL TECHNOLOGIES, INC.,

Appellant,

v.

ISE CORPORATION,

Appellee.

Civil No. 3:11-cv-02704-L (NLS)

Bankruptcy Case No. 10-14198-MM11

**APPELLEES' MOTION TO DISMISS  
APPEALS FOR LACK OF APPELLATE  
JURISDICTION**

DATE: August 6, 2012

TIME: 10:30 a.m.

PLACE: Courtroom 14 - 5th Floor  
United States District Court  
Southern District of California  
940 Front Street  
San Diego, CA 92101-8900

**TO THE HONORABLE M. JAMES LORENZ, UNITED STATES DISTRICT  
JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA AND MAXWELL  
TECHNOLOGIES, INC.:**

Appellees ISE Corporation (“ISE”) and the Official Committee of Unsecured Creditors of ISE Corporation (“Committee,” and together with ISE, the “Appellees”) hereby move this court for an order granting the following relief:

1. Dismissing the appeal filed by Maxwell Technologies, Inc. (“Maxwell” or the “Appellant”) of the Memorandum Decision Regarding Motion to Enforce the Amended Order (A) Granting Debtor’s Motion (1) Approving the Sale of Assets; and (2) Authorizing the assumption and Assignment of Certain Executory Contracts; and (B) Approving the sale Transaction and the Transaction Documents on the grounds that such appeal is constitutionally moot and equitably moot and deprives this Court of jurisdiction<sup>1</sup>;
2. Dismissing the appeal filed by Maxwell of the Order Approving Joint Motion for Order Approving Compromise of Controversy with Bluways USA, Inc. on the grounds that such appeal is constitutionally moot and equitably moot and deprives this Court of jurisdiction<sup>2</sup>; and
3. Granting to the Appellees such other and further relief as the Court deems just and appropriate.

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<sup>1</sup> See *Motor Vehicle Cas. Ins. Co. v. Thorpe Insulation Co. (In re Thorpe Insulation Co.)*, 677 F.3d 869, 880 (9th Cir.2012) (where appellate court cannot grant to appellant any effective relief when deciding matter on the merits, appeal is moot) (citations omitted); *Pub. Util. Comm’n of the State of Cal. V. FERC*, 100 F.3d 1451, 1458 (9th Cir. 1996) (court must be able to grant effective relief, or it lacks jurisdiction and must dismiss appeal); see *Lowenschuss v. Selnick (In re Lowenschuss)*, 170 F.3d 923, 933 (9th Cir.1999) (if case presents transactions so complex or difficult to unwind, then doctrine of equitable mootness applies).

<sup>2</sup> *Id.*

1 This Motion is supported by the Memorandum of Points and Authorities filed concurrently  
2 herewith, the Declaration of Garrick A. Hollander filed concurrently herewith, the Request for  
3 Judicial Notice filed concurrently herewith, and on such other evidence, argument and  
4 representations that may be presented as the Court elects to consider at or prior to the hearing, if any,  
5 on the Motion.

6  
7 DATED: July 9, 2012

**WINTHROP COUCHOT  
PROFESSIONAL CORPORATION**

8  
9 By: /s/ Richard H. Golubow  
Richard H. Golubow  
Garrick A. Hollander  
Attorneys for Appellee ISE Corporation

10  
11  
12 DATED: July 9, 2012

**PACHULSKI STANG ZIEHL & JONES LLP**

13 By: /s/ Shirley S. Cho  
Jeffrey N. Pomerantz  
Shirley S. Cho  
Attorneys for Appellee Official Committee of  
Unsecured Creditors of ISE Corporation

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: 660 Newport Center Drive, 4<sup>th</sup> Floor, Newport Beach, CA 92660.

A true and correct copy of the foregoing document entitled (*specify*): **APPELLEES' MOTION TO DISMISS APPEALS FOR LACK OF APPELLATE JURISDICTION** will be served or was served (**a**) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (**b**) in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On July 9, 2012, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- **Robert A Franklin**  
rfranklin@murraylaw.com
- **Richard H Golubow**  
rgolubow@winthropcouchot.com, vcorbin@winthropcouchot.com, pj@winthropcouchot.com

☐ Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:**

On (*date*) \_\_\_\_\_, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) July, 9, 2012, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

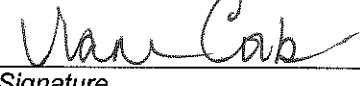
- **Stephen T. O'Neill:** soneill@murraylaw.com

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

July 9, 2012  
Date

Viann Corbin  
Printed Name

  
Signature